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COMMITTEE AGAINST TORTURE

Eighteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 281st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 28 April 1997, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.281/Add.1.

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The meeting was called to order at 10.10 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the eighteenth session of the Committee and welcomed all its members.

STATEMENT BY THE OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

2. Mr. ZACKLIN (Officer-in-Charge, High Commissioner/Centre for Human Rights) referred to a number of changes that had taken place in the management of the High Commissioner/Centre for Human Rights. Mr. Ayala Lasso had left the post of High Commissioner to become Minister for Foreign Affairs of Ecuador and Mr. Fall had been transferred to United Nations Headquarters. He had therefore been appointed Officer-in-Charge until the new High Commissioner was nominated by the Secretary-General and approved by the General Assembly.

3. Since the last session of the Committee, there had been a number of developments of interest to its work. The critical financial situation of the United Nations Voluntary Fund for Victims of Torture had fortunately improved, and thanks to the contributions made by 23 Governments and 2 individuals, as well as pledges made by 11 Governments, approximately US$ 3,500,000 should be available for the care and rehabilitation of torture victims in May 1997. However, the Secretariat had received a record number of 138 project proposals, representing an increase of almost 40 per cent compared to 1996. The Board of Trustees had decided that a request for a grant could not exceed one third of the total budget of a project.

4. The Special Rapporteur of the Commission on Human Rights on torture had submitted his annual report to the Commission (E/CN.4/1997/7) providing information on correspondence between himself and government authorities with regard to 669 cases or incidents of alleged torture. In addition, the Special Rapporteur had transmitted 130 urgent appeals to 45 Governments on behalf of some 490 individuals, as well as several groups of persons who were reported to have been tortured. The Special Rapporteur had also undertaken missions to Pakistan, Venezuela and East Timor and had expressed the hope that a visit to Mexico could soon be arranged, since the Government of that country had responded positively to his request. In his report, the Special Rapporteur explicitly disagreed with those who did not consider corporal punishment as constituting torture or cruel, inhuman or degrading treatment or punishment. In the Special Rapporteur's view, the "lawful sanctions" mentioned in article 1 of the Convention must refer to sanctions that constituted practices widely accepted as legitimate by the international community, such as deprivation of liberty through imprisonment. It should be noted in that connection that in 1992 the Human Rights Committee, in its general comment 20, had stated that prohibition of torture and cruel, inhuman or degrading treatment or punishment must extend to corporal punishment. The Commission on Human Rights had adopted that point of view at its thirty-third session; Commission resolution 1997/38 reminded Governments that corporal punishment could amount to cruel, inhuman or degrading punishments or even to torture. It had also, for the first time, made a number of recommendations aimed at abolition of the death penalty (resolution 1997/12). In particular, it had called upon all States that still maintained the death penalty to observe the

Safeguards guaranteeing protection of the rights of those facing the death penalty and had requested the Secretary-General to submit to the Commission, in consultation with Governments, a yearly supplement to his quinquennial report on capital punishment and implementation of the Safeguards guaranteeing the protection of the rights of those facing the death penalty. The Commission had also examined the progress made by its working group on the question of a draft optional protocol to the Convention against Torture and had noted that it had decided to establish a sub-committee to monitor the implementation of the future protocol. Not all issues had been resolved, however, and another meeting of the Working Group would probably be convened in October 1997.

5. He extended to the Committee his good wishes for a fruitful session.

6. The CHAIRPERSON thanked Mr. Zacklin for the valuable information with which he had provided the Committee.

7. Mr. SORENSEN, speaking on behalf of the Committee, thanked Mr. Zacklin for his work at the thirty-third session of the Commission on Human Rights and noted that the Commission, in resolution 1997/38, had asked the General Assembly to proclaim 26 June a United Nations International Day in support of the victims of torture and the total eradication of torture, and the effective functioning of the Convention against Torture, which had entered into force on 26 June 1987.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CAT/C/40)

8. The provisional agenda (CAT/C/40) was adopted.

SUBMISSION OF REPORTS BY STATE PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 3)

9. Mr. BRUNI (Secretary of the Committee) said that of 97 initial reports due between June 1988 and April 1997, 68 had been submitted; of the remaining 29, 17 were more than three years overdue: the reports of Uganda and Togo (1988), Guyana (1989), Brazil and Guinea (1990), Somalia (1991), Estonia, Venezuela, Yemen and Yugoslavia (1992), Benin, Bosnia and Herzegovina, Cape Verde, Cambodia, Latvia and the Seychelles (1993), and Burundi (1994). The States involved had received from 4 to 14 reminders, including letters from the Chairman of the Committee. At its eleventh session, the Committee had asked Belize to submit by 10 March 1994 a new version of its initial report, which was too brief. Despite four reminders and a letter from the Chairman, the document requested had not yet been received.

10. From June 1992 to April 1997, 65 second periodic reports had been due, 36 of which had been submitted. Of the remaining 27, 12 were more than three years overdue: those of Afghanistan, Austria, Belize, Bulgaria, Cameroon, Luxembourg, Uganda, Philippines, and Togo, whose reports had been due in 1992, and Guyana, Tunisia and Turkey, whose reports had been due in 1993. The States involved had been sent four to seven reminders. Twenty-six third periodic reports had been requested for 199€; 8 had been submitted and 18 were still awaited.

11. The CHAIRMAN asked the members of the Committee for suggestions on approaches to take towards States whose reports were so long overdue.

12. Mr. SORENSEN proposed that the Committee should decide to consider the situation of those States, for example at its May 1998 session, with or without a report and with or without the presence of a delegation.

13. Mr. CAMARA said that Mr. Sorensen's proposal was hardly realistic, for the Committee had no mandate to act if States did not respond to its requests.

14. Mr. SORENSEN said that the Committee was quite free to examine the situation in a State in the absence of a delegation, in the light of information from various sources, such as non-governmental organizations. It was quite permissible for it to express its concerns and issue recommendations on the basis of information provided to it through unofficial channels.

15. Mr. GONZÁLEZ POBLETE said that he appreciated Mr. Sorensen's concern. However, he doubted that article 19 of the Convention authorized the Committee to adopt Mr. Sorensen's proposal.

16. Mr. BURNS shared the doubts expressed by Mr. González Poblete. The Committee could, however, refer to those cases in its annual report. The Committee's role was to draw the attention of States parties, whose responsibility it was to take action, to the cases of States that failed to fulfil their obligations under the Convention.

17. Mr. YAKOVLEV said that the Committee should consider more generally what measures the United Nations might take when a ratified instrument was not implemented. A convention could be undermined in two ways: on the one hand, through actual violations - the existence of acts of torture, in the present instance - and on the other, the failure to implement particular provisions of the instrument. As the other treaty bodies had the same problem, consultations should be held on the subject with a view to developing guidelines for dealing with such cases.

18. Mr. BRUNI (Secretary of the Committee) confirmed that the same problem arose in connection with all the international human rights instruments. The various treaty bodies employed different methods in attempting to solve it. The Secretary-General was the depositary of treaties, and his role was to see that the mechanisms for implementing those instruments functioned satisfactorily. However States parties were responsible for taking the appropriate decisions when they noted that a State was not meeting its obligations.

19. Nevertheless, the Secretary-General and the High Commissioner for Human Rights could act in a number of ways. When either of them was making an official visit to a State, the Centre for Human Rights provided him with information on the status of ratification of the various instruments, the situation of the State in question with regard to submission of reports and the conclusions issued by the treaty bodies concerning that State; he therefore could, where necessary, talk about any such problems with the national authorities. In addition, at their joint meetings, the chairmen of the treaty bodies devoted thought to ways of handling such cases, and they had

issued a number of recommendations at their September 1996 meeting. The treaty bodies themselves could send reminders, their chairmen could write to the authorities, or the chairman or members of the body could hold meetings with the heads of missions of States parties which had not fulfilled their reporting obligations. The Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination had decided to consider the implementation of their respective instruments in countries which had not submitted reports. That procedure had been adopted recently by the former and followed for quite some time by the latter, which had found it satisfactory. The Committee against Torture, for its part, in addition to the reminders sent by its Chairman, had decided to make reference, in its agenda and in its annual report, to States which had not submitted reports; it also issued, at its press conference, a list of States which were far behind in report submission. The General Assembly itself was looking into the problem and had referred to it particularly in resolution 51/87, to which the Committee would be reverting in connection with its consideration of agenda item 8. The Commission on Human Rights had also adopted resolutions on the subject. The secretariat was currently considering the possibility of producing a document showing the report submission status of the States parties.

20. The CHAIRMAN said that, for the present, when dealing with such a specific subject as torture, it would be very difficult and contrary to article 19 of the Convention, for the Committee to consider the situation in a State in the absence of any report from that State. Nevertheless, as States were sensitive to how public opinion viewed them, it would be worthwhile to read out at the press conference the list of States which were far behind in their reporting obligations; the list should also appear in the annual report.

21. Mr. SORENSEN said that, on the contrary, it was easier to deal with such a specific subject as torture when there was no country report. But since he was the only member of that opinion, he hoped that at the very least the Committee would give its views on the subject in the Commission on Human Rights. It was regrettable that the Committee against Torture did not address the Commission as did the special rapporteurs and non-governmental organizations, for example. In the Commission the Chairman of the Committee should ask for the floor and speak forcefully on the issue. On the tenth anniversary of the entry into force of the Convention, the Committee should strongly denounce States parties which had not deemed it necessary to fulfil their obligations in the last 10 years.

22. Mr. GONZÁLEZ POBLETE said that the problem should also be approached from the opposite perspective; the Committee should consider the reports it received within a reasonable period. If the present situation continued many reports which had been submitted in 1997 would not be considered before 1999. Once again, attention should be drawn to the serious situation that would arise if the Committee were not allowed to hold a third session.

23. Mr. BRUNI (Secretary of the Committee), reverting to the possibility mentioned by Mr. Sorensen of raising the question of overdue reports in the Commission on Human Rights, said that the General Assembly had referred to that question in resolution 51/87 and had strongly emphasized that those problems should be raised at meetings of the States parties. The next meeting

of States parties to the Convention against Torture would be held in November 1997, and the question of failure to submit reports would be duly submitted to those States; it must be realized, however, that the election of the members of the Committee was always the States parties' primary concern.

24. Mr. SORENSEN noted that, at its present session, the Committee would be considering seven reports of States parties and also adopting its annual report; at the November 1997 session only six reports were to be considered. It would be preferable, however, to consider eight reports at that session, in order to have fewer reports to consider at the session in the spring of 1998, at which the Committee would have to adopt its report.

25. Mr. BRUNI (Secretary of the Committee) said that the Committee could very well decide to change its programme of work, but must be aware of the magnitude of the task that awaited it in connection with the implementation of articles 20 and especially 22 of the Convention. The number of communications received by the Committee was growing exponentially, and before deciding how many reports it would consider, it should first look into the other work it would have to complete.

The first part (public) of the meeting rose at 11.20 a.m.